

Department of Health
Notice of Rulemaking Hearing
Board of Examiners for Nursing Home Administrators
Division of Health Related Boards

There will be a hearing before the Tennessee Board of Examiners for Nursing Home Administrators to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-16-103. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Rm. of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 19th day of October, 2005.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

Substance of Proposed Rules

Amendments

Rule 1020-1-.03 Board Officers, Records, Meetings, Consultants, Change of Address and/or Name, and Declaratory Orders, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (11), so that as amended, the new catchline and the new paragraph (11) shall read:

1020-1-.03 Board Officers, Records, Meetings, Consultants, Change of Address and/or Name, Declaratory Orders, and Screening Panels.

- (11) Screening Panels - The Board adopts, as if fully set out herein, rule 1200-10-1-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-138, 63-16-103, 63-16-108, and Public Chapter 234 of the Public Acts of 2005.

Rule 1020-1-.06, Preceptors, Administrators-In-Training and Administrator-in-Training Programs, is amended by deleting subparagraph (2) (a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (a) shall read:

(2) (a) To remain certified as a preceptor a licensee must:

1. on or before December 31st of every year after initial certification, successfully complete nine (9) clock hours of Board approved continuing education within the calendar year in addition to the continuing education hours required for licensure renewal pursuant to rule 1020-1-.12. Credit for six (6) hours of continuing education per year shall be given to a preceptor upon the successful completion of an A.I.T. program; and
2. hold an active, current and unrestricted license in Tennessee as a Nursing Home Administrator; or
3. hold an active, current and unrestricted license in another state as a Nursing Home Administrator and submit proof of successful completion of twenty-seven (27) clock hours of NAB-approved continuing education for every year the licensee practiced in another state while his/her Tennessee license was expired or retired.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-104, and 63-16-107.

Rule 1020-1-.08, Procedures for Licensure, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) An applicant shall submit with his application a “passport” style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application. Photocopies are not accepted.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-106, and 63-16-109.

Rule 1020-1-.12, Continuing Education, is amended by adding the following language as new subparagraph (1) (d):

(1) (d) Waiver or Extension of Continuing Education Requirements.

1. The Board may grant a waiver of the need to attend and complete the required clock hours of continuing education or the Board may grant an

extension of the deadline to complete the required clock hours of continuing education if it can be shown that compliance was beyond the physical or mental capabilities of the person seeking the waiver.

2. Waivers or extension of the deadline will be considered only on an individual basis and may be requested by submitting the following items to the Board Administrative Office prior to the expiration of the calendar year (December 31) in which the continuing education is due:
 - (i) A written request for a waiver or deadline extension which specifies which requirements are sought to be waived or which deadline is sought to be extended and a written and signed explanation of the reason for the request; and
 - (ii) Any documentation which supports the reason(s) for the waiver or deadline extension requested or which is subsequently requested by the Board.
3. A waiver or deadline extension approved by the Board is effective only for the calendar year for which the waiver is sought.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, and 63-16-107.

Rule 1020-1-.16, Scope of Practice, is amended by adding the following language as new paragraph (3):

- (3) Use of Titles - Any person who possesses a valid, unsuspended and unrevoked license issued by the Board has the right to use the title "Nursing Home Administrator" and to practice as a nursing home administrator as defined in T.C.A. §§ 63-16-101. Violation of this rule regarding use of titles shall subject the licensee to disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-101, 63-16-103, 63-16-108, and Public Chapter 467 of the Public Acts of 2005.

Rule 1020-1-.18, Repealed is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by adding the following introductory language and new paragraphs (1) through (7), so that as amended, the new catchline, the new introductory language, and the new paragraphs (1) through (7) shall read:

1020-1-.18 Advertising. The following acts or omissions in the context of advertisements by any licensee shall subject the licensee to disciplinary action pursuant to T.C.A. § 63-16-108.

- (1) Claims that convey the message that one licensee is better than another

when superiority cannot be substantiated.

- (2) Misleading use of an unearned or non-health degree.
- (3) Misrepresentation of a licensee's credentials, training, experience, or ability.
- (4) Promotion of professional services which the licensee knows or should know is beyond the licensee's ability to perform.
- (5) Use of any personal testimonial attesting to a quality of competency offered by a licensee that is not reasonably verifiable.
- (6) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.
- (7) Communication of personal identifiable facts, data, or information about a nursing home resident without first obtaining the resident's consent.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-108, and Public Chapter 467 of the Public Acts of 2005.

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Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Jerry Kosten, Regulations Manager, Division of Health Related Boards, First

Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010 615-532-4397.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Board of Examiners for Nursing Home Administrators.

Robbie H. Bell, Director
Health Related Boards

Subscribed and sworn to before me this the 1st day of August, 2005.

Notary Public

My commission expires on the 25th day of March, 2006.

The notice of rulemaking set out herein was properly filed in the Department of State on the ____ day of _____, 2005.

Riley C. Darnell
Secretary of State

By: _____